
(2014) 08 OHC CK 0071
In the Orissa High Court
Case No : Writ Petition (Civil) No. 11467/2014

Bijaya Kumar Sahoo

APPELLANT

Vs

Tahasildar

RESPONDENT

Date of Decision : 06-08-2014

Acts Referred:

Citation : (2014) 2 OLR 509

Hon'ble Judges : B.K. Patel, J

Bench : Single Bench

Judgement

ORDER

B.K. Patel, J.—Heard learned counsel for the petitioner and learned counsel for the State who accepts notices on behalf of the opp. parties.

2. Petitioner filed Misc. Case No. 6379 of 2012 for issue of legal heir certificate in respect of his deceased brother late Ajaya Kumar Sahoo in order to claim amount deposited in the post office at Anakhia for purchase of Kisan Vikash Patra (Rs. 20,000/- in toto). By order dated 25.12.2012, Tahasildar, Biridi appears to have rejected the application on the basis of cryptic observation to the effect that the application does not come within the purview of Miscellaneous Certificate Rules. The petitioner filed Misc. Appeal No. 13 of 2013 assailing the order of the Tahasildar, Biridi. By order dated 24.9.2013 at Annexure-5, the Sub-Collector, Jagatsinghpur dismissed the appeal. Being aggrieved, petitioner has filed this Writ petition.

3. Admittedly, Tahasildar, Biridi has not assigned any reason for rejecting the application for issuance of legal heir certificate except making a cryptic observation at the top of order sheet at Annexure-4 to the effect that the application does not come within the purview of Miscellaneous Certificate Rules. It appears that on receipt of application at Annexure 3, R.I. was directed to conduct an enquiry and the R.I. reported the purpose of legal heir certificate is for withdrawal of amount deposited against four Kisan Vikas Patra. Sub-Collector,

Jagatsinghpur in the appellate order also has observed that the legal heir certificate was required for withdrawal of Rs. 20,000/- against four Kisan Vikas Patra purchased by the deceased. However, having referred to Rule 3(iii) and Note (d) of Rule 3 of the Miscellaneous Certificate Rules, 1984, the Sub-Collector concluded that the applicant may be advised to approach the Civil Court for issue of Succession Certificate. Note (d) under Rule 3 specifically provide that legal heir certificate shall be granted for limited purposes such as drawal of pension, gratuity, arrears, salaries, Provident Fund, etc. The use of word "etc." indicates that the purpose mentioned under Note (d) are illustrative. There is no dispute to the claim made by the petitioner for issuance of legal heir certificate. The petitioner has filed application for obtaining legal heir certificate solely for the purpose of withdrawal of amount of from the post office against Kisan Vikas Patra which deceased had purchased.

4. In such view of the matter, there appears no cogent reason for refusing grant of certificate indicating legal heirs of deceased Ajay Kumar Sahoo for the above said purpose on the basis of enquiry which was caused by the Tahasildar. The impugned orders passed by Tahasildar, Biridi and Sub-Collector, Jagatsinghpur are not sustainable in law.

5. Accordingly, order dated 25.12.2012 passed by the Tahasildar, Biridi at Annexure-4 and order dated 24.9.2013 passed by Sub-Collector, Jagatsinghpur at Annexure-5 are quashed.

6. Tahasildar, Biridi is directed to issue legal heir certificate in respect of above deceased on the basis of enquiry report.

7. Issue urgent certified copy.